

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA**

MINUTE ORDER

DATE: 08/12/2019

TIME: 08:20:00 AM

DEPT: 20

JUDICIAL OFFICER PRESIDING: Matthew P. Guasco

CLERK: Miriam Hernandez

REPORTER/ERM: None

CASE NO: **56-2018-00512761-CU-PL-VTA**

CASE TITLE: **Veneroso vs. C R Bard Inc**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Product Liability

EVENT TYPE: Motion for Summary Judgment for Defendant The Regents of the University of California
MOVING PARTY: The Regents of The University of California
CAUSAL DOCUMENT/DATE FILED: Motion for Summary Judgment Memorandum of Points and Authorities; Declarations of Jessica Cynowiec and Raymond L Ricci MD, 05/29/2019

APPEARANCES

Jessica E Cynowiec, counsel, present for Defendant(s).

Richard R. Tabura, counsel, present for Defendant(s).

09:00 a.m. The court convenes in this matter with all parties present as indicated above.

Counsel have received and read the court's written tentative ruling.

Matter submitted to the Court without argument. The Court notes a notice of non-opposition to the motion for summary judgment was filed on 07/25/19 by plaintiffs.

The Court finds/orders:

The Court's tentative is adopted as the Court's ruling.

For the following reasons, the Court GRANTS the motion of Regents for summary judgment:

(1) Plaintiffs filed a notice of non-opposition to the motion.

(2) Accordingly, for the purposes of this motion only, the Court finds Undisputed Material Facts ("UMF"s) 1-32 are established and undisputed.

(3) Summary judgment procedure is well settled: "A party may move for summary judgment in an action or proceeding if it is contended that the action has no merit or that there is no defense to the action or proceeding." (Code of Civ. Proc., § 437c, subd. (a).) A party may also move for "summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, one or more claims for damages, or one or more issues of duty. . . ." (Code of Civ. Proc., § 437c, subd. (f)(1).) "The court must grant the motion if all the papers submitted show that there is no triable issue as to any material fact [citation omitted]-that is, there is no issue requiring a trial as to any fact that is necessary under the pleadings and, ultimately, the law [citations omitted]-and that the moving party is entitled to a judgment as a matter of law [citation omitted]." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843, 107 Cal.Rptr.2d 841, 24 P.3d 493, internal quotation marks omitted ("*Aguilar*").) "The purpose of the law of summary judgment is to provide courts with a mechanism to cut through the parties' pleadings

in order to determine whether, despite their allegations, trial is in fact necessary to resolve their dispute." (*Id.*, 25 Cal.4th at p. 843, 107 Cal.Rptr.2d 841, 24 P.3d 493.) The court must construe the evidentiary showing, and all reasonable inferences therefrom, in the light most favorable to the opposing party. (*Id.*, 25 Cal.4th at p. 844, 107 Cal.Rptr.2d 841, 24 P.3d 493.)

The Court follows a three part test in ruling on the motion:

(a) "First, . . . the party moving for summary judgment bears the burden of persuasion that there is no triable issue of material fact and that he is entitled to judgment as a matter of law." (*Id.*, 25 Cal.4th at p. 850, 107 Cal.Rptr.2d 841, 24 P.3d 493.)

(b) "Second, . . . the party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he carries his burden of production, he causes a shift, and the opposing party is then subjected to a burden of production of his own to make a prima facie showing of the existence of a triable issue of material fact." (*Ibid.*)

(c) "Third, . . . how the parties moving for and opposing, summary judgment may each carry their burden of persuasion and/or production depends on which would bear what burden of proof at trial." (*Id.*, 25 Cal.4th at p. 851, 107 Cal.Rptr.2d 841, 24 P.3d 493.)

(4) Here, for the purposes of this motion only, it is undisputed that Regents did not breach the standard of care. Thus, the motion establishes that an essential element of the action against Regents cannot be proven. Regents are entitled to judgment on the Complaint as a matter of law.

(5) For these reasons, the Court GRANTS summary judgment in favor of Regents and against plaintiffs.

Counsel for Regents shall serve and file a notice of ruling and proposed order consistent with the above and in conformity with the Code of Civil Procedure and the California Rules of Court. A copy of this tentative decision may be attached to any such notice or proposed order in lieu of quoting same verbatim in the body of the document.